

# SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Wiggins Analyst: John Pavalasky Bill Number: AB 1239

Related Bills: See Prior Analysis Telephone: 845-4335 Amended Date: July 10, 2003

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Payment Instruments

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended April 8, 2003.
- ☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☐ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.
- ☐ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.
- ☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED APRIL 8, 2003, STILL APPLIES.
- ☒ OTHER – See comments below.

## SUMMARY

This bill would allow a business trust to hold the reserves that a corporation engaged in the business of selling money orders, money grams and the like is required to maintain under California law.

## PURPOSE

According to the author's office, the purpose of the bill is to remove these reserves from the possibility of bankruptcy attachment in the event a business selling money orders files for bankruptcy.

## BACKGROUND

Under current California law, the Payment Instruments Law provides for the regulation and licensure of persons engaging in the business of selling money orders, money grams and the like. One requirement is that the payment of the money orders must be guaranteed by requiring the issuing corporation to own reserves of an equal amount.

Under current federal and state law, in general, a trust is taxable separately from the creator of the trust.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

7/14/03

## **SUMMARY OF AMENDMENTS**

Prior to the July 10th amendment, an unintended consequence of this bill would have been the shifting of the taxability of income earned by reserves from the corporation issuing the money orders (taxable under the corporate franchise tax) to the business trust.

The July 10, 2003, amendment resolves the unintended tax impact of the bill by providing that the income from reserves required to be held under the state Financial Code would be treated as business income taxable to the corporation issuing the money orders and not to the business trust that holds the reserves that guarantee payment.

The amendment resolves the IMPLEMENTATION CONSIDERATIONS and POLICY CONCERNS raised in the previous analysis of the bill as amended April 8, 2003. A new REVENUE ESTIMATE is provided. The remainder of the previous analysis of the bill as amended April 8, 2003, still applies.

## **POSITION**

Pending.

## **ECONOMIC IMPACT**

### Revenue Estimate

The amendment adds a section to the Revenue and Taxation Code that preserves the current law tax treatment of income from reserves required to be held under the state Financial Code. That new section provides that income from reserves required to be held under the state Financial Code would be treated as business income taxable to the corporation issuing the money orders and not to the business trust that holds the reserves that guarantee payment. The amendment, thus, eliminates any portion of the revenue impact (estimated previously on the order of \$150 million loss annually beginning in 2004) attributable to this bill.

## **LEGISLATIVE STAFF CONTACT**

John Pavalasky  
Franchise Tax Board  
845-4335  
[john.pavalasky@ftb.ca.gov](mailto:john.pavalasky@ftb.ca.gov)

Brian Putler  
Franchise Tax Board  
845-6333  
[brian.putler@ftb.ca.gov](mailto:brian.putler@ftb.ca.gov)